

Appln. No. 09/890,641
Amdt. dated July 29, 2005
Reply to Office Action of May 17, 2005

Amendments to the Drawings:

Attached hereto is an annotated sheet showing changes to Fig. 3.

Attachment: Annotated Sheet (1) Showing Changes to Fig. 3

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REMARKS/ARGUMENTS

Reconsideration of the present application, as amended, is respectfully requested.

The May 17, 2005 Office Action and the Examiner's comments have been carefully considered. In response, claims are cancelled, and remarks are set forth below in a sincere effort to place the present application in form for allowance. The amendments are supported by the application as originally filed. Therefore, no new matter is added.

ALLOWABLE SUBJECT MATTER

The Examiner's indication that claims 6 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims is acknowledged and appreciated. Claims 6 and 19 are not amended to be in independent form in view of the asserted allowability of independent claim 1, upon which claims 6 and 19 ultimately depend.

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DRAWINGS

In the Office Action, the drawings are objected to under 37 CFR 1.83(a) because the Examiner contends that the drawings do not show every feature of the invention specified in the claims. Specifically, the Examiner states that the more fine meshed network recited in claims 12 and 15 is not shown in the drawings. In response, claims 12 and 15 are cancelled, thereby rendering the objection to the drawings moot.

The drawings are also objected to because the Examiner contends that the boxes in Fig. 3 should be labeled other than just with the reference numbers, for a better understanding of the figure. In response, Fig. 3 is amended as requested by the Examiner. In view of the amendments of Fig. 3, reconsideration and withdrawal of the objection to Fig. 3 of the drawings are respectfully requested.

REJECTION UNDER 35 USC 112, FIRST PARAGRAPH

In the Office Action claims 12 and 15 are rejected under the first paragraph of 35 USC 112 as failing to comply with the written description requirement. Specifically, the Examiner states that the claims contain subject matter which is not described in the specification in such a way as to reasonably

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convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention.

In response, claims 12 and 15 are cancelled, thereby rendering the rejection under the first paragraph of 35 USC 112 moot.

REJECTION UNDER 35 USC 112, SECOND PARAGRAPH

In the Office Action claims 12 and 15 are rejected under the second paragraph of 35 USC 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Examiner contends that the term "more fine" in claims 12 and 15 is a relative term which renders the claims indefinite. In response, claims 12 and 15 are cancelled, thereby rendering the rejection under the second paragraph of 35 USC 112 moot.

PRIOR ART REJECTIONS

In the Office Action claims 1, 2, 4, 5, 7, 8, 17 and 18 are rejected under 35 USC 102(e) as being anticipated by U.S. Patent Publication 2003/0123628 (Rhodes). Claims 3, 9-16 and 20 are

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rejected under 35 USC 103 as being unpatentable over Rhodes in view of USP 5,950,125 (Buhrmann et al.).

The present claimed invention, as defined by independent claim 1, is directed to a method for access-point dependent calculation of telecommunication rates by way of a specific network. The method includes the steps of generating connecting data in response to obtaining and using, by a subscriber or a group of subscribers, telecommunication links, which connecting data contains data which identifies a network-access point used by a subscriber. The method also includes during a specific period of time, storing in a connecting data file the connecting data, and as a function of data on access points used by a subscriber or group of subscribers in the period of time, determining the access points to which rates determined for the subscriber or group of subscribers are coupled.

Independent claim 8 is an apparatus claim corresponding to the method of claim 1.

In rejecting independent claim 1 and 8 the Examiner relies upon Rhodes. According to the Examiner, claims 1 and 8 are "clearly anticipated" by Rhodes. Rhodes teaches a method and apparatus for adjustable billing of different subscriber uses of network resources. A network monitors quantitative

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characteristics of a connection and accesses the type of information which is being transported in the connection. Once the type of information is identified, a billing rate commensurate with that type of information (for example, either voice or data) can be applied to the process for billing with regard to that connection.

That is, Rhodes teaches a method for adjustable billing based on the type of information being transported over the connection. A connection in a telephone network may be used for, e.g., voice or data and Rhodes' method allows more to be charged for data transmission than for voice transmission (see paragraph 0019). To detect which type of information is being transported, the energy level of the signal may be monitored (see paragraph 0006).

The disclosure of Rhodes is very different from the present claimed invention, which adjusts the billing based upon the network access points used by the subscriber. That is, the present claimed invention does not distinguish between the type of service provided, but assigns preferential rates to a subscriber on the basis of the network access points used by that subscriber. In the wording of claim 1: "determining, as a function of data on access points used by a subscriber . . . in said period of time, the access points to which rates determined for said subscriber..."

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are coupled." Note that the "data on access points" are, of course, data which pertain to those access points, not data transmitted through those access points. This is further explained in the first paragraph of page 3 of the present application. In summary, Rhodes' method is dependent on the type of information being transmitted, while the method of the present claimed invention is dependent on the point of access to transmit the information.

None of the other references of record close the gap between the present claimed invention as defined by claims 1 and 8 and Rhodes.

Buhrmann et al. disclose a method in which communication features, such as billing rates, may depend on the subscriber being inside or outside a "user zone." Such a user zone is defined as one or more cells, microcells, picocells, and/or one or more cell sectors. A first billing rate may be applied to a cellular telephone situated within the user zone, while a second billing rate may be applied outside this user zone (see the paragraph spanning columns 1 and 2 of Buhrmann et al.). In contrast to the present invention, Buhrmann et al.'s user zones are static; a user zone profile is stored in the MTSO (mobile telephone switching office). Buhrmann et al. do not disclose how

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the user zones are determined. Buhrmann et al. only mention that a user zone may be defined as including the entire coverage area of a cell site, or of an MTSO (see the paragraph spanning columns 4 and 5 of Buhrmann et al.).

In contrast, the present claimed invention dynamically assigns certain (preferential) rates to often used network access points. In other words, the present invention creates a "user zone" (using Buhrmann et al.'s terminology) based on the subscriber's usage, not on the particular MTSO that happens to be the subscriber's "home" MTSO.

The features of the presently claimed invention are therefore neither disclosed nor obvious by Rhodes and Buhrmann et al., taken either singly or in combination. More particularly, if a person skilled in the art were motivated to combine Rhodes and Burhmann et al., he would arrive at a method in which preferential rates were offered based upon (a) the type of service (Rhodes) and (b) the MTSO defined user zone (Buhrmann et al.). The person skilled in the art would certainly *not* arrive at the present claimed invention wherein billing is adjusted based upon the network access points used by the subscriber.

That is, the present claimed invention as defined by claim 1 is patentable over the cited references because the references do

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not disclose, teach or suggest a method for access-point dependent calculation of telecommunication rates by way of a specific network comprising generating connecting data in response to obtaining and using, by a subscriber or a group of subscribers, telecommunication links, which connecting data each time contains data which identifies a network-access point used by a subscriber; during a specific period of time, storing in a connecting-data file, said connecting data, and as a function of data on access points used by a subscriber or group of subscribers in said period of time, determining the access points to which rates determined for said subscriber or group of subscribers, are coupled (claim 1, lines 4 - 14).

Claim 8 is patentable over the cited references for reasons, inter alia, set forth above in connection with claim 1.

Claims 2-7 and 16-20 are either directly or indirectly dependent on claim 1, and claims 9-11, 13 and 14 are either directly or indirectly dependent on claim 8. Claims 2-7 and 9-11, 13, 14 and 16-20 are patentable over the cited references in view of their dependence on either claim 1 or 8 and because the references do not disclose, teach or suggest each of the limitations set forth in the dependent claims.

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If the Examiner disagrees with any of the foregoing, the Examiner is respectfully requested to point out where there is support for a contrary view.

Entry of this Amendment, allowance of the claims, and the passing of this application to issue are respectfully solicited.

If the Examiner has any comments, questions, objections or recommendations, the Examiner is invited to telephone the undersigned at the telephone number given below for prompt action.

Respectfully submitted,


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Encls.: Annotated Sheet (1) Showing Changes to Fig. 3